



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH
*1102 SE Quince Street • PO Box 47990
Olympia, Washington 98504-7990*

July 21, 2004

The Honorable Ken Jacobsen
Washington State Senate
Post Office Box 40446
Olympia, Washington 98504-0446

Dear Senator Jacobsen:

At a meeting in your office on June 3, 2004, a question arose about the State Board of Health's statutory authority to establish drinking water standards for schools and to require the sampling of water from school taps and drinking water fountains.

The Board has two areas of authority that relate to school drinking water. Both are set forth in its authorizing legislation, chapter 43.20 RCW.

RCW 43.20.050(2)(a)(ii) states: "In order to protect public health, the state board of health shall...[a]dopt rules necessary to assure safe and reliable public drinking water and to protect the public health.... Such rules shall establish requirements regarding... [d]rinking water quality standards, monitoring requirements, and laboratory certification requirements."

Most of the requirements of RCW 43.20.050(2)(a) are specific to public water systems. Schools are not public water systems if they acquire water from external purveyors (when a school has its own dedicated water source, the entire school facility is part of the public water system). The rule implementing this statute, chapter 246-290 WAC, applies specifically to public water systems (purveyors). RCW 43.20.050(2)(a)(ii), however, does not specify that standards and monitoring requirements shall apply only to public water systems.

RCW 43.20.050(2)(c) states that the Board shall, "Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work."

The rule implementing this section, chapter 246-366 WAC, does not currently address drinking water standards. Drinking water, however, is generally considered in public health to be part of the environmental health portfolio. One could easily argue that drinking water standards and monitoring requirements for schools are "related to environmental conditions" and would be allowable under RCW 43.20.050(2)(c).

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In summary, drinking water standards for facilities such as schools are not currently in place and are neither specifically required nor specifically authorized for schools by statute. The authority for drinking water quality standards and monitoring requirements, however, is not limited to public water systems. Likewise, the list of environmental conditions to be regulated in schools does not specify drinking water and school drinking water is not currently regulated. The list, however, is not all-inclusive and drinking water quality could easily be construed to be an environmental condition.

Therefore, it is my personal read—as a policy analyst and not an attorney—that these two overlapping Board authorities would provide the Board sufficient authority to establish drinking water standards and monitoring requirements aimed at protecting school occupants, particularly students, from environmental health risks. Before adopting such a rule, the Board would consider many issues beside its statutory authority—for example, would this be a cost-effective public health intervention and are there enough resources available to successfully implement whatever policy the Board might institute in rule? It would also have to look at overlapping authorities, such as the Department of Labor and Industries' authority to regulate schools as a workplace.

I hope this adequately addresses the questions raised at the June 3 meeting. I look forward to continuing to work with you, legislative staff, and our partner agencies on this important issue.

Sincerely,

Craig McLaughlin

Acting Executive Director

cc: Mr. Gary Wilburn, Senate Democratic Caucus
Ms. Melissa Burke-Cain, Attorney General's Office
Mr. Gregg Grunenfelder, Department of Health
Mr. Steve Meyer, Department of Health
Ms. Linda Lake, State Board of Health
Mr. Carl Osaki, State Board of Health